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Plaintiffs Clarke and Rebecca Wixon, Norman

and Barbara Wixon, Kandice Scattolon and the Class

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

Clarke and Rebecca Wixon, Norman
and Barbara Wixon, and Kandice Scattolon, on
behalf of themselves and all others similarly
situated,

Plaintiffs,

v.

Wyndham Resort Development Corp. (f/k/a
Trendwest Resorts, Inc.),

Defendant.

Case No. C 07 2361 JSW (BZ)

**~~PROPOSED~~ ORDER PROVIDING FOR
FURTHER JOINT STATUS REPORT
PURSUANT TO PROPOSED CLASS
SETTLEMENT**

**AND CONTINUING STATUS
CONFERENCE SET FOR 3/25/2011**
Class Action

Date: March 25, 2011

Time: 1:30 p.m.

Courtroom: Hon. Jeffrey S. White

On November 21, 2010, Plaintiffs Clarke and Rebecca Wixon, Norman and Barbara Wixon and Kandice Scattolon (“Plaintiffs”) and Defendant Wyndham Resort Development Corporation (“Wyndham”) (Plaintiffs and Wyndham are referred to collectively as the “Parties”) filed their Joint Application for Preliminary Approval of Class Action Settlement. *See* Dkt. No. 661. On November 30, 2010, the Parties filed their Joint Supplemental Submission in Support of the Joint Application for Preliminary Approval of Class Action Settlement. *See* Dkt. No. 664. In that submission, the Parties advised the Court that notice had been served upon the appropriate regulators and state attorneys general, in accordance with the provisions of the Class Action Fairness Act, 28 U.S.C. § 1715(b) (“CAFA”), and the terms of the Settlement Agreement and Release (“Settlement Agreement”). The Parties also advised the Court that the WorldMark Board had unanimously approved a resolution granting its consent to those provisions of the settlement that may require Board consent.

On December 3, 2010, the Court granted preliminary approval of the proposed settlement, and authorized the Parties to disseminate a Summary Notice of Class Action Settlement. *See* Dkt. No. 668 at p. 2. Pursuant to the Preliminary Approval Order, the Summary Notice was duly and timely posted on the WorldMark, the Club website and on Girard Gibbs LLP’s website.

The December 3, 2010 Order required the Parties to submit a status report to the Court on or before March 3, 2011, advising of the status of the Parties’ efforts to obtain Regulatory Approval to implement the terms of the settlement. The Parties have timely filed their Joint Interim Status Report and the Declarations of Charles A. Bott and Jonathan K. Levine. In their papers, the Parties have informed the Court that, despite diligent effort, Wyndham is not able at this time to in good faith forecast that, using commercially reasonable efforts, it will be able to legally extract at least 400 units pursuant to the Settlement Agreement. The Parties have requested an additional time period up to April 18, 2011 within which to continue their efforts to obtain Regulatory Approval and to further report to the Court. The Court finds that the Parties have diligently used commercially reasonable efforts, consistent with the terms of the Settlement Agreement, to obtain Regulatory Approval of the settlement and that the request for additional time is reasonable and conducive to the Parties’ settlement.

The Court having considered all papers filed and proceedings had herein, and otherwise being fully informed in the premises and good cause appearing therefore, **IT IS HEREBY ORDERED** that:

1 1. On or before April 18, 2011, the Parties shall submit a further joint status report to the
2 Court advising of the status of the Parties' efforts to obtain Regulatory Approval to implement the
3 terms of the settlement. If, at that time, Wyndham attests that Regulatory Approval is, in Wyndham's
4 estimation, likely to be attained, the Parties may propose a timeline and procedure for providing formal
5 settlement notice to the Settlement Class and a schedule for final settlement approval by the Court.

6 2. A further status conference shall be held on April 22, ____, 2011 at 1:30 p.m.

7 3. The status conference currently scheduled for March 25, 2011 is hereby cancelled.

8
9 **IT IS SO ORDERED.**

10
11 Dated: March 4, 2011



Honorable Jeffrey S. White
United States District Judge